



COLORADO DISCHARGE PERMIT SYSTEM (CDPS)

FACT SHEET TO PERMIT NUMBER COR900000

GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH
NON-EXTRACTIVE INDUSTRIAL ACTIVITY

TABLE OF CONTENTS

I. TYPE OF PERMIT	3
II. SCOPE OF THE GENERAL PERMIT	3
III. MAJOR CHANGES FROM LAST PERMIT VERSIONS.....	4
A. COVERAGE UNDER THIS PERMIT.....	7
1. <i>Facilities Covered.....</i>	<i>7</i>
a. <i>Allowable Stormwater Discharges.....</i>	<i>7</i>
b. <i>Allowable Non-Stormwater Discharges</i>	<i>7</i>
2. <i>Limitations on Coverage.....</i>	<i>8</i>
3. <i>Obtaining and maintaining Authorization under this permit.....</i>	<i>9</i>
B. PERMIT COMPLIANCE	9
C. CONTROL MEASURES.....	9
D. EFFLUENT LIMITATIONS	10
1. <i>Practice-based Effluent Limitations.....</i>	<i>10</i>
a. <i>Minimize Exposure.....</i>	<i>10</i>
b. <i>Management of Runoff.....</i>	<i>10</i>
c. <i>Sector Specific Practice-based Effluent Limits.....</i>	<i>10</i>
d. <i>Waste, Garbage and Floatable Debris.....</i>	<i>10</i>
2. <i>Numeric Effluent Limitations based on Effluent Limitations Guidelines</i>	<i>11</i>
3. <i>Water Quality-Based Effluent Limitations</i>	<i>11</i>
a. <i>Water Quality Standards</i>	<i>11</i>
b. <i>Additional Requirements for Discharges to Water Quality Impaired Waters.....</i>	<i>11</i>
c. <i>Additional Requirements for Discharges to Waters Designated as Critical Habitat for Threatened and Endangered Species.....</i>	<i>13</i>
d. <i>Additional Requirements for New or Increased Discharges to Reviewable Waters</i>	<i>13</i>
E. STORMWATER MANAGEMENT PLAN (SWMP)—GENERAL SWMP REQUIREMENTS.....	13
F. STORMWATER MANAGEMENT PLAN (SWMP)—SPECIFIC SWMP REQUIREMENTS.....	14
1. <i>Facility Map.....</i>	<i>14</i>
2. <i>Facility Inventory and Assessment of Pollutant Sources</i>	<i>14</i>
3. <i>Additional Control Measure Requirements.....</i>	<i>14</i>
4. <i>Inspection Procedures and Documentation</i>	<i>15</i>
5. <i>Monitoring Procedures and Documentation</i>	<i>15</i>
G. INSPECTIONS.....	15
H. GENERAL MONITORING REQUIREMENTS	15
1. <i>Analytical Requirements</i>	<i>16</i>
2. <i>Adverse Weather Conditions.....</i>	<i>16</i>
3. <i>Climates with Irregular Stormwater Runoff.....</i>	<i>16</i>
4. <i>Monitoring Periods.....</i>	<i>16</i>
5. <i>Monitoring Exceptions for Inactive and Unstaffed Sites that meet the condition of no exposure.....</i>	<i>16</i>
I. SPECIFIC MONITORING REQUIREMENTS.....	16
1. <i>Visual Monitoring</i>	<i>16</i>
2. <i>Benchmark Monitoring</i>	<i>16</i>
a. <i>Applicability of Benchmark Monitoring</i>	<i>17</i>
b. <i>Benchmark Monitoring Schedule.....</i>	<i>17</i>
c. <i>Benchmark Monitoring Actions</i>	<i>17</i>
3. <i>Effluent Limitations Guidelines (ELG) Monitoring</i>	<i>18</i>
4. <i>Monitoring Requirements for Discharges to Impaired Waters.....</i>	<i>18</i>

J. CORRECTIVE ACTIONS.....19

K. REPORTING AND RECORDKEEPING19

IV. PUBLIC NOTICE COMMENTS – SEE ATTACHED DIVISION RESPONSE TO PUBLIC COMMENTS

DOCUMENT.....19

I. TYPE OF PERMIT

Master General, NPDES, Surface Water, First issue, Statewide. This renewal master general permit replaces three stormwater discharge permits (listed below), and largely emulates the structure and content of the 2008 EPA Multi-Sector General Permit (2008 MSGP).

<u>Stormwater discharge permit name</u>	<u>Effective date</u>	<u>Expiration date</u>
Stormwater Discharges Associated with Light Industrial Activity (COR010000)	July 1, 2006	June 30, 2011
Stormwater Discharges Associated with Heavy Industrial Activity (COR020000)	January 1, 2007	December 31, 2011
Stormwater Discharges Associated with the Recycling Industry (COR060000)	January 1, 2007	December 31, 2011

The Water Quality Control Division (Division) determined that combining the Light, Heavy and Recycling stormwater permits into one permit promoted improved consistency of permit requirements, a flexible and efficient process for application review and issuing permit certifications, and provides a more user-friendly format for the permittee.

The industries covered by this renewal permit are included within the scope of the 2008 MSGP. The Fact Sheet for the 2008 MSGP provides detailed background and basis for the organization, scope and content of that permit. The 2008 MSGP and Fact Sheet are available on EPA's website at <http://cfpub.epa.gov/npdes/stormwater/indust.cfm>.

The Division evaluated the content of the 2008 MSGP and the associated basis for the terms and conditions provided in the Fact Sheet. In some cases, the Division determined that the terms and conditions included in the 2008 MSGP were appropriate for this permit. In other cases, the Division determined that different terms and conditions were appropriate for this permit. In this Fact Sheet, the Division has documented where terms and conditions in this permit are consistent with the 2008 MSGP, and adopts by reference the basis included in the Fact Sheet for the 2008 MSGP. The Division has documented its basis for including terms and conditions that are different from the MSGP in this Fact Sheet.

Organization of the Permit

This structure of the renewal permit differs from that of the three stormwater discharge permits it replaces, and more clearly defines permit requirements and permittee responsibilities. This permit is organized as follows:

- Part I (A-L) Requirements applicable to all Industrial Sectors
- Part II Standard Terms and Conditions
- Part III Sector-Specific Requirements for Industrial Activity
- Appendix A Facilities and Activities Covered
- Appendix B Information Summaries
- Appendix C Definitions and Abbreviations

II. SCOPE OF THE GENERAL PERMIT

This permit is available for stormwater discharges from 26 sectors of industrial activity (Sector A – Sector AC, **not including** Sectors G, H, or J as identified in the 2008 MSGP), as well as any discharge not covered under the 26 sectors that has been identified by the Division as appropriate for coverage (Sector AD). The sector descriptions are based on Standard Industrial Classification (SIC) Codes and Industrial Activity Codes consistent with the definition of stormwater discharge associated with industrial activity at 5 CCR 1002-61.3(2). See Appendix A in this permit for specific information on each sector. The sectors are listed in the table below:

Sector A – Timber Products	Sector R – Ship and Boat Building or Repairing Yards
Sector B – Paper and Allied Products Manufacturing	Sector S – Air Transportation Facilities

Sector C – Chemical and Allied Products Manufacturing	Sector T – Treatment Works
Sector D – Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers	Sector U – Food and Kindred Products
Sector E – Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing	Sector V – Textile Mills, Apparel, and other Fabric Products Manufacturing
Sector F – Primary Metals	Sector W – Furniture and Fixtures
Sector I – Oil and Gas Extraction and Refining	Sector X – Printing and Publishing
Sector K – Hazardous Waste Treatment Storage or Disposal	Sector Y – Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
Sector L – Landfills and Land Application Sites	Sector Z – Leather Tanning and Finishing
Sector M – Automobile Salvage Yards	Sector AA – Fabricated Metal Products
Sector N – Scrap Recycling Facilities	Sector AB – Transportation Equipment, Industrial or Commercial Machinery
Sector O – Steam Electric Generating Facilities	Sector AC – Electronic, Electrical, Photographic and Optical Goods
Sector P – Land Transportation	Sector AD – Reserved for Facilities Not Covered Under Other Sectors and Designated by the Division Director
Sector Q – Water Transportation	

This permit **does not** provide coverage for stormwater discharges currently covered by the CDPS General Permits identified in the table below. The industrial activities covered by these two stormwater discharge permits are substantially different from those covered by the renewal permit; therefore, they are not included within the scope of the renewal permit. The Division will manage the renewal of these two permits separately.

<u>Stormwater discharge permit name</u>	<u>Effective date</u>	<u>Expiration date</u>
Stormwater Discharges Associated with Metal Mining Operations and Mine-waste Remediation (COR040000)	October 1, 2006	September 30, 2011
Stormwater Discharges Associated with Sand and Gravel Mining and Processing (and other Nonmetallic Minerals except fuel) (COR340000)	October 1, 2007	September 30, 2012

III. MAJOR CHANGES FROM LAST PERMIT VERSIONS

The Division must renew general permits once every 5 years, and must include such conditions in the renewal permit that are necessary to protect waters of the State. This comprehensive permit renewal results from the Division’s review of the Light, Heavy and Recycling stormwater permits, which identified gaps in the quality of the current industrial stormwater permits relative to the 2008 MSGP, other state permits, case law, and statutory and regulatory direction provided. The existing industrial stormwater permits have not been significantly modified since 1992 (almost 20-years) and there is a significant amount of new information available since that time that led the Division to determine that a comprehensive renewal was appropriate (e.g., Division observations during compliance inspections of permitted industrial facilities, sampling results for years 2000 – 2010 for industrial sectors required to conduct annual sampling of stormwater discharges from their facilities, scientific literature, and EPA’s Industrial Stormwater Fact Sheet Series that provide information with respect to the types and quantities pollutants discharged with stormwater from industrial facilities).

The Division conducted a significant stakeholder process with respect to this permit, which started with a Pre-Public Notice Meeting on April 29, 2011. The purpose of this stakeholder outreach was to increase awareness of the renewal process for the general permit, discuss the substantive areas of review, and obtain input for development of draft permit conditions. The Division considered the stakeholder input received during the meeting, and written input received after the meeting, particularly within the context of the 2008 MSGP model (see discussion in Section I of this Fact Sheet, above). Where the Division determined that the terms and conditions included in the 2008 MSGP were appropriate for this permit, and flexibility exists within 2008 MSGP framework, the Division incorporated that flexibility in the terms and conditions of this permit.

Where specific input was received from stakeholders that was directly related to development of the draft permit, the input and Division comments are summarized in the table below:

<u>Subject</u>	<u>Stakeholder Input</u>	<u>Approach for Draft Permit</u>
1. Separate vs. combined permits	Stakeholders prefer the “separate permits” approach. Current permits are specific to an industrial sector, and as such, do not impose additional requirements associated with different industrial sectors.	<p>The combined permit approach consolidates elements from the separate permits into one common section; additional sector-specific requirements are contained in a separate part of the combined permit.</p> <p>The Division determined the combined approach is appropriate for this permit. The Division acknowledges that the permit does contain additional terms and conditions when compared to the permits it replaces; however, this does not result from the combined permit format.</p> <p>Further, any additional requirements are associated with a specific sector, and as such, will not impose additional requirements if the associated industrial activity is not conducted at the facility.</p>
2. Control measure vs. BMP terminology	Stakeholders prefer the term “BMP” over “control measure”, and believe that the current permits allow flexibility in BMP selection that may fit better with owner/operators budget and facility conditions.	<p>The term “control measure” as defined in the 2008 MSGP has a broader range of meaning than “BMP” (see Section III.C of this Fact Sheet), and the Division determined its use is appropriate for this permit.</p> <p>Consistent with the stormwater permits this renewal permit replaces, the Division does not typically mandate specific control measures a permittee must use to control pollutant sources at a facility. It is the permittee’s responsibility to select appropriate control measure to meet the applicable effluent limitations in the permit.</p>
3. Effluent limitations	Stakeholders believe that the <u>Endangered and Threatened Species and Critical Habitat Protection</u> and <u>Historic Properties Preservation</u> provisions in the 2008 MSGP may not be necessary for stormwater management.	<p>The Division took a different approach than the 2008 MSGP with respect to <u>Discharges to Waters Designated as Critical Habitat for Threatened and Endangered Species</u> (see Section III.D.3.c of this Fact Sheet), and incorporated this approach in this permit.</p> <p>The <u>Historic Properties Preservation</u> provisions in the 2008 MSGP do not apply to states, and were not incorporated into this permit.</p>

<u>Subject</u>	<u>Stakeholder Input</u>	<u>Approach for Draft Permit</u>
4. SWMP requirements	Stakeholders stated that the current permits allow flexibility for site-specific SWMPs, and that a SWMP template should be developed for the new permit.	<p>The SWMP requirements in this permit, although not identical to those in the previous permits, still allow the permittee to develop a site-specific SWMP. Similar to control measure selection, as discussed in item 2. above, it is the permittees' responsibility to prepare an adequate SWMP.</p> <p>The Division has participated in SWMP template development previously (Auto Recycling industry) and will attempt to incorporate this approach as part of the development and implementation of the permit, as resources allow.</p>
5. Inspections	Stakeholders stated that the Division should consider a tiered inspection requirement based on the size of the business, exceptions for remote locations, and consider the arid to semi-arid climate of Colorado with respect to requiring more frequent inspections.	<p>The Division's approach to permittee inspection frequency is provided in Section III.G of this Fact Sheet, and includes an exception to the monthly inspection frequency (i.e., twice yearly) for inactive and unstaffed facilities that demonstrate a condition of no-exposure.</p> <p>Similar to the 2008 MSGP, the Division did not provide an exception to inspection frequency based on arid or semi-arid climates for the industrial sectors covered by this permit. The Division believes that the frequency and intensity of Colorado precipitation events (rain and snowmelt year-round) warrants the level of inspection required by the permit.</p>
6. Monitoring	Stakeholders stated that the Division should maintain the annual monitoring currently required by the permits due to the financial burden increased sampling would place on business.	<p>Based on benchmark exceedances the Division has recorded under the previous permits, the Division determined that it was appropriate to include at least one year of quarterly sampling under this renewal permit to evaluate seasonal variability in discharges.</p> <p>Similar to the 2008 MSGP, and as provided in Section III.I.2. of this Fact Sheet, the renewal permit allows for annual benchmark monitoring for facilities that demonstrate monitoring values below the benchmarks in the first four quarterly samples.</p> <p>Continued quarterly sampling is required only for those facilities that continue to exceed benchmarks in stormwater samples.</p> <p>Facilities that do not experience a "measurable storm event" will be unable to sample, and will submit a DMR indicating "No discharge".</p>
7. Reporting – DMRs and ICIS	Stakeholders stated its concern of 3 rd party lawsuits if sampling data is made public through EPA's database of record, ICIS.	Inclusion of the sampling data in a database is critical to allowing the Division to track the information and conduct compliance oversight activities. All data reported to the Division is subject to the Colorado Open Records Act (CORA), whether or not the data is placed in ICIS.

In addition to the Pre-Public Notice meeting, the Division held 10-outreach meetings around the state during the public notice period, initiated a 60- rather than 30-day public notice period, held a Public Meeting and a pre-issuance meeting with commenters, and provided significant website communication.

The Division determined that a delayed effective date following issuance of the renewal permit is appropriate, and intends to issue the final permit in March 2012 with a July 1, 2012 effective date. This ~4-month time lag between the issue and effective dates will enable the Division to issue the certifications under the renewal permit, and permittees to modify their facility processes and procedures to meet the requirements of the final permit.

This Fact Sheet for COR900000 provides a description of the major and significant changes from the three stormwater discharge permits identified. To provide clarity to the reader, the Fact Sheet follows the order of the renewal permit.

PART I

A. COVERAGE UNDER THIS PERMIT

1. Facilities Covered

Facilities eligible to discharge under this permit are those previously covered under the Light, Heavy and Recycling stormwater discharge permits. Consistent with the 2008 MSGP, the Division added a sector (Sector AD) for use in permitting those stormwater discharges designated by the Division as needing a stormwater permit because the discharge contributes to a violation of a water quality standard; or is a significant contributor of pollutants to waters of the state. Sector AD will also be used to provide coverage for stormwater discharges from logging roads associated with silviculture activities, should an application for coverage be received by the Division.

a. Allowable Stormwater Discharges

Consistent with the 2008 MSGP, the Division modified the allowable stormwater discharges in the renewal permit to include co-located industrial activities, as defined in Appendix B of the permit. This addition removes any ambiguity as to the need to implement permit requirements for activities other than the primary industrial activity at the facility; clearly identifies the requirements for the co-located industrial activity; and in some cases, may allow permittees to hold one permit certification as opposed to two.

b. Allowable Non-Stormwater Discharges

The Division developed one consistent list of allowable non-stormwater discharges for the renewal permit that excludes any discharges covered by other permits or a Division Low Risk Guidance document, and adds appropriate discharges from the 2008 MSGP. Specifically, the following allowable non-stormwater discharges from the 2008 MSGP were not included in this permit:

<u>Discharge</u>	<u>Reason for not including in this permit</u>
Potable water, including fire hydrant and water line flushings	Discharges to land and surface water are covered by the Division Low Risk Discharge Guidance: Discharges of Potable Water (Revised August 2009).
Irrigation drainage	Irrigation return flow is specifically exempt from permitting pursuant to 5 CCR 1002-61.3(1)(b)
Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed)	Discharges to land are covered by the Division Low Risk Discharge Guidance: “Discharges from Surface Cosmetic Power Washing Operations to Land” (July 2010). Discharges to surface water from power washing operations are not included in the scope of this guidance document. The Division has determined that the pollutant potential of such discharges is significant and would, in general, need treatment to meet effluent limits. As a

	result, the Division does not cover such discharges to surface water under a general permit, and advises collection and treatment for mobile operations, or infiltration. Alternately, owners or operators may instead apply for individual permit coverage.
Routine external building washdown that does not use detergents	<p>Discharges to land are covered by the Division Low Risk Discharge Guidance: “Discharges from Surface Cosmetic Power Washing Operations to Land” (July 2010).</p> <p>Discharges to surface water requires individual permit coverage.</p>
Uncontaminated ground water	<p>Discharges to land are covered by the Division Low Risk Discharge Guidance: Discharges of Uncontaminated Groundwater to Land (September 2009).</p> <p>Discharges to surface water requires individual permit coverage, or alternately, coverage under the Subterranean Dewatering or Well Development General Permit, as appropriate. The Division’s approach to discharges of groundwater differs from EPA’s in the 2008 MSGP as the Division has determined that some naturally occurring contaminants in groundwater are present at levels that may cause or contribute to an exceedance of a water quality standard in surface water. Examples include formations that have high total dissolved solids, EC, SAR, iron, radionuclides, and temperature.</p>

Following public notice, the Division moved “Discharges that meet the provisions of a Division Low Risk Guidance document” from Part I.A.1.b of the permit (Allowable Non-Stormwater Discharges) to Part I.A.2 of the permit (Limitations on Coverage), as such discharges do not have coverage under the renewal permit.

2. Limitations on Coverage

Consistent with the 2008 MSGP, the Division added a new section (Limitations on Coverage) to the renewal permit to identify specific discharges or activities not covered by the permit, and alternative permit options. The Division added this section to clarify the scope of the renewal permit; the preceding Light, Heavy and Recycling stormwater permits did not contain a section identify such limitations.

In this section, the Division included limitations on coverage for Discharges Currently Covered by Another Permit, as redundant permit coverage is not necessary and inefficient.

Following public notice, the Division removed the limitation on coverage for Discharges with Chemical Addition, thereby allowing discharges with chemical addition to be eligible for coverage under this permit. Chemical addition within the context of this permit section means chemicals (e.g., flocculent, alum, chitosan, etc.) that are added to stormwater, prior to discharge. The Division has modified the industrial stormwater application form to require specific information pertaining to chemical use at a facility for this purpose. An applicant or permittee that chooses to pursue chemical treatment of stormwater must apply to the Division for permit coverage, or for a modification of existing permit coverage, prior to discharging industrial stormwater with chemical addition from the facility. The Division will evaluate the information provided in the application and will determine whether appropriate, site-specific water quality-based effluent limitations (WQBELs), that reflect the industrial stormwater composition and the chemicals used for treatment, are necessary for the facility discharge. The resulting facility monitoring requirements may include site-specific benchmarks, site-specific effluent limitations, WET testing, etc.

The Division did not include limitations on coverage in this permit to meet regulatory requirements associated with new discharges to water quality impaired waters. The Division determined that those regulatory requirements are more appropriately met through application review and the determination of the appropriate permit action, issuance

or denial, and the inclusion of additional water quality-based effluent limits and associated terms and conditions in the permit, such as additional monitoring and corrective action. See also Section III.D.3.b of this Fact Sheet.

3. **Obtaining and maintaining Authorization under this permit**

Application Requirements

The Division extended the required time-frame for submitting a permit application to the Division for previously unpermitted discharges from 30-days to 90-days before a facility commences industrial activity. The Division found that additional time is required to adequately evaluate an application and associated materials, and determine whether site specific terms and conditions are necessary to include in the certification to meet the terms and conditions of this permit and the associated regulatory requirements.

Permit Certification Procedures

Following public notice, the Division added language to the renewal permit to allow a compliance schedule in the permit certification for sector-specific terms and conditions that are new or more stringent than previous conditions.

B. PERMIT COMPLIANCE

Consistent with the 2008 MSGP, the Division added a new section (**Permit Compliance**) to the renewal permit to clarify conditions that constitute a violation of the permit (e.g., failure to comply with the terms and conditions of the permit; failure to perform corrective actions, etc.), and conditions that are not violations, such as a benchmark exceedance (provided the permittee performs the required corrective actions). Benchmarks, which are not effluent limitations, are discussed below in Section III.I.2. This section also clarifies that correcting a permit violation does not remove the original violation.

C. CONTROL MEASURES

Consistent with the 2008 MSGP, the Division uses the term “**control measure**” (defined in Appendix B) instead of “Best Management Practice (BMP)” throughout the renewal permit. This term has a broader range of meaning than BMP, as it includes both BMPs and “other methods”, and as such, better describes the range of pollutant reduction practices a permittee may implement. Consistent with the stormwater permits the renewal permit replaces, the Division does not typically mandate specific control measures a permittee must implement to control pollutant sources at their facility. The permittee has the flexibility to select appropriate control measure that when implemented, enable the permittee to meet all applicable permit effluent limitations for stormwater discharges from their facility.

Also, the Division uses and defines the term “**minimize**” to provide the permittee with a clear expectation for the level of performance of control measures implemented to achieve effluent limits that require the permittee to “minimize” pollutants. The Fact Sheet for the 2008 MSGP provides significant discussion about both terms with respect to the levels of technology-based control (see Section III.D of this Fact Sheet) required by this permit.

Lastly, the Division added the requirement to retain **installation and implementation specifications** with the Stormwater Management Plan for each control measure used by the permittee to meet the effluent limitations contained in the permit. The Division requires this in other stormwater permits and finds that it is necessary to ensure that permittees recognize, select, and implement control measures that are appropriate for specific pollutant sources.

Following public notice, the Division modified the permit language pertaining to control measure maintenance at Part I.C.2.b by deleting the phrase “immediately in most cases”. It is important, however, to note that when modification of a control measure is required, the Division’s expectation is that the permittee conduct this action “immediately, in most cases”. The intent of this permit condition is that the permittee correct control measures as they are discovered, and that interim control measures are implemented while the primary control measure is corrected.

D. EFFLUENT LIMITATIONS

Consistent with the 2008 MSGP, the Division identifies the effluent limitations required by the permit as listed below, and clearly states that all discharges authorized under the permit shall attain these effluent limitations.

- practice-based effluent limits (Part I.D.1);
- numeric effluent limits based on effluent limitations guidelines (Part I.D.2); and,
- water quality-based effluent limitations (Part I.D.3).

As discussed in Section III.F of this Fact Sheet, the effluent limitations contained in this permit are located in a section separate from the SWMP, thereby differentiating effluent limitations from other terms and conditions of the permit.

The practice-based effluent limits and numeric effluent limits based on effluent limitation guidelines (ELGs) are technology-based effluent limits that are required for all CDPS permits. These effluent limitations correspond to the required levels of technology based control (BPT, BCT, BAT) for various discharges under the Colorado Water Quality Control Act. For this permit, most of the technology-based effluent limits are based on Best Professional Judgment (BPJ) decision making because no ELG applies. However, the permit also includes technology-based limits based on the specific ELGs included. The renewal permit includes water quality-based effluent limits as necessary to meet applicable water quality standards and supplement the technology-based effluent limits. The Division determined that it was appropriate to include the BPJ based technology-based effluent limits and the water quality-based effluent limits on the same basis EPA used in development of the 2008 MSGP.

1. Practice-based Effluent Limitations

The Division modified the practice-based effluent limitations required by this permit. Most significant among the changes are including the term “**minimize**” within the practice-based effluent limitations (see Section III.C of this Fact Sheet), and adding four new practice-based effluent limitations, as described below.

a. **Minimize Exposure**

Minimizing exposure prevents pollutants from coming into contact with precipitation and can reduce the need for control measures to treat or otherwise reduce pollutants in stormwater runoff. As such, this is one of the most important control options.

The Division modified the “Minimize Exposure” practice-based effluent limitation contained in the 2008 MSGP to (1) clarify that permittees must minimize the exposure of *pollutant sources* ... to rain, snow, snowmelt, and runoff, and (2) indicate that *locating industrial materials and activities inside or protecting them with storm resistant coverings* are two available techniques for minimizing exposure, as opposed to required techniques.

b. **Management of Runoff**

Managing runoff (diverting, infiltrating, reusing, containing, or treating stormwater runoff) prevents stormwater contact with exposed materials or pollutant sources, and like minimizing exposure, can reduce the need for control measures to treat or otherwise reduce pollutants in stormwater runoff.

c. **Sector Specific Practice-based Effluent Limits**

Achieve any additional practice-based limits stipulated in the relevant sector-specific section(s) of Part III.

d. **Waste, Garbage and Floatable Debris**

In addition to other stormwater pollutants, the permittee must minimize the discharge of waste, garbage, and floatable debris from the site.

2. **Numeric Effluent Limitations based on Effluent Limitations Guidelines**

Discharges from facilities in an industrial category subject to one of the effluent limitations guidelines identified in Part I.A.1, Tables A-1 and A-2 of the renewal permit must meet the referenced effluent limits.

3. **Water Quality-Based Effluent Limitations**

The renewal permit includes a new section that addresses water quality-based effluent limitations (WQBELs) applicable to stormwater discharges. The permit allows the Division to conduct a reasonable potential analysis that allows one of three outcomes to be determined: 1) a finding of reasonable potential, which for a new (proposed) discharge would need to be based on information other than monitoring from the proposed facility, such as monitoring information for similar sites/discharges, published scientific information, or information in the application, 2) a monitor-only reasonable potential decision, which indicates that the Division expects the pollutant to be present in the discharge, but does not have certainty that levels will cause or contribute to an exceedance of a water quality standard, or 3) a finding of no reasonable potential and no monitoring, indicating that the Division either does not expect the pollutant to be present or if expected to be present it is at levels significantly below the applicable water quality standard.

a. Water Quality Standards

Consistent with the 2008 MSGP, the Division included the requirement that stormwater discharges authorized under the renewal permit must be controlled as necessary to meet applicable water quality standards. Generally this means attaining the water quality standards in the receiving water, but may be end-of-pipe due to site-specific circumstances such as for new discharges to impaired waters. This statement replaces the statement in the preceding Light, Heavy and Recycling stormwater permits that “Stormwater discharges from industrial activities shall not cause or threaten to cause pollution, contamination or degradation of State waters”. This requirement applies to all stormwater discharges; additional requirements apply to discharges to Water Quality Impaired Waters and Waters Designated as Critical Habitat for Threatened and Endangered Species, as described below.

The Division expects that compliance with the other conditions in the renewal permit will control discharges as necessary to meet applicable water quality standards. However consistent with the 2008 MSGP, the Division included a provision in the permit that allows a site-specific water quality-based effluent limitation to be included in the certification as necessary to comply with water quality standards. The Division also included a provision in the permit that allows site-specific terms and conditions to be included in the certification to determine whether compliance with the other terms and conditions of the permit will control the discharge as necessary to meet applicable water quality standards.

The type of information that the Division anticipates may become available substantiating the need for a site specific water quality-based effluent limitation includes, but is not limited to, in-stream water quality data, discharge monitoring data and information regarding corrective actions. Any site-specific water quality-based effluent limitation will be derived from and comply with the associated water quality standard.

The type of additional terms and conditions the Division anticipates could be appropriate to determine if compliance with the other terms and conditions of the permit will control the discharge as necessary to meet applicable water quality standards includes, but is not limited to in stream monitoring, site-specific discharge water quality standards monitoring, site-specific benchmarks, and source characterization studies (see also Section III.I of this Fact Sheet).

b. Additional Requirements for Discharges to Water Quality Impaired Waters

- i) **Existing** Discharge to an Impaired Water **with** an EPA Approved or Established TMDL.

Consistent with the 2008 MSGP, the Division will implement a new review process for existing discharges to impaired waters with an approved or established TMDL.

Where an operator indicates on its application that the discharge is to one of these waters, the Division will determine whether the pollutant is of concern for the discharge and review the applicable TMDL to determine whether the TMDL includes requirements that apply to the individual discharger or to its industrial sector. The Division will determine whether additional requirements are necessary to comply with the wasteload allocation or alternatively whether an individual permit application is necessary. Where the discharge is authorized under the general permit, the Division will include water quality standards monitoring to verify that the discharge will be controlled as necessary to be consistent with the assumptions and requirements of the TMDL through compliance with the other terms and conditions of the general permit.

The Division utilizes this process for new discharges to impaired waters, and intends to extend this process to existing discharges to impaired waters in this category under this renewal permit. The Division included a specific section regarding water quality standards monitoring in Part I.I.4 of the permit.

ii) **Existing** Discharge to an Impaired Water **without** an EPA Approved or Established TMDL.

The Division will implement a new review process for existing discharges to impaired waters without an approved TMDL.

Where an operator indicates on its application that the discharge is to one of these waters, the Division will determine whether a pollutant has been identified, and if so, if it is of concern for the discharge. If so, the Division will include water quality standards monitoring to provide information to support development of the TMDL and to determine if the discharge, once a TMDL is issued, will be controlled as necessary to be consistent with the assumptions and requirements of the TMDL through compliance with the other terms and conditions of this permit.

The Division utilizes this process for new discharges to impaired waters, and intends to extend this process to existing discharges to impaired waters in this category under this renewal permit. The Division included a specific section regarding water quality standards monitoring in Part I.I.4 of this permit.

iii) **New** Discharge to an Impaired Water.

The Division considered emulating conditions included in the 2008 MSGP and determined that an alternate approach was more appropriate for this permit and consistent with permitting practices conducted by the Division in Colorado. The 2008 MSGP substantively addresses requirements for new discharges to impaired waters under limitations on coverage and does not include additional water quality-based effluent limits to further control those discharges. In the 2008 MSGP, EPA included language from the permit regulations that prohibit issuance of a permit to new discharges to impaired waters in certain circumstances, as a permit condition under limitations on coverage. The Division has had a longstanding practice of meeting the subject regulatory prohibition through two practices: 1) assigning water quality-based effluent limits at the point of discharge (end of pipe) to new discharges to impaired waters, which does not allow a discharge to cause or contribute to a violation of a water quality standard, and 2) denying permit applications in cases where the Division has determined (and the applicant has been unable to substantiate otherwise) that the discharge without additional treatment or controls, would not be controlled as necessary to meet to meet permit terms and conditions, specifically water quality-based effluent limits.

The Division intends to continue that process with this renewal permit, and has included a narrative water quality-based effluent limitation in the permit, which will be included in permit certifications authorizing new discharges to impaired waters, including naming the relevant water quality standards. The Division determined that it was appropriate to include a narrative water quality-based effluent limitation in the permit as an additional protection to ensure compliance with water quality standards and

make it clear to the permittee that water quality standards must be met at the point of discharge (end of pipe).

c. Additional Requirements for Discharges to Waters Designated as Critical Habitat for Threatened and Endangered Species.

The Division, EPA, and USFWS entered into a Memorandum of Agreement (MOA) “regarding enhanced coordination in implementing Colorado’s mixing zone rule and the Service’s August 11, 2003 biological opinion on this matter” in October 2005 (The Mixing MOA). The Mixing MOA evolved from an Endangered Species Act (ESA) Section 7 consultation that was conducted as part of EPA’s approval of Colorado’s water quality standards mixing zone provisions. In development of the Mixing MOA the parties were primarily focused on ensuring no more than minor detrimental effects from larger, continuous point source discharges during critical low flow conditions.

Since execution of the Mixing MOA and consistent with options included in the Mixing MOA, the Division’s has issued permits for larger, continuous discharges that have required the discharges to meet water quality standards at the point of discharge (end of pipe) based on critical low flow conditions. The Division has also required a large continuous discharge to occur from a diffuser to ensure instantaneous mixing. The Mixing MOA also includes an option for passive mixing in situations where the permittee can demonstrate that such mixing will be protective of the listed species.

The Division has determined that additional information is needed to determine whether compliance with the other conditions of this permit will control the discharges as necessary to eliminate or minimize the potential for no more than minor detrimental effects to listed species in regards to receiving water mixing. The Division has included a provision in the permit that requires water quality-based monitoring for discharges to waters designated as critical habitat for threatened and endangered species. The Division has also included a provision that allows additional terms and conditions to be included in the certification, and the types of additional terms and conditions the Division anticipates could be appropriate includes, but is not limited to studies to determine whether instantaneous mixing occurs due to the location of the discharge and flow in the receiving water at the time of discharge, and studies to determine whether passive mixing is protective of listed species.

d. Additional Requirements for New or Increased Discharges to Reviewable Waters

Consistent with the 2008 MSGP, the Division expects that compliance with the other conditions of the permit will control discharges as necessary to comply with the applicable antidegradation requirements. However, the Division included a provision in the permit that allows additional terms and conditions to be included in the certification as necessary to comply with antidegradation requirements. Types of information that may become available warranting site-specific conditions includes but is not limited to information on new or increased discharges, including information provided consistent with Part I.I and Part II (Change in Discharge) of the renewal permit.

E. STORMWATER MANAGEMENT PLAN (SWMP)—General SWMP Requirements

The Division modified the SWMP requirements in the renewal permit, as enumerated in this section and in Section F, below. As such, for existing discharges authorized under the previous versions of this permit, the Division requires that the permittee modify the facility SWMP to comply with the requirements of this permit within 90 days of the certification effective date.

Changes to General SWMP Requirements:

1. SWMP requirement: The Division added the requirement that the permittee must modify the SWMP to reflect current site conditions. The Division expects that the permittee use the SWMP as a tool to plan and implement stormwater management at the facility. The requirement that permittees update the facility SWMPs to reflect current site condition formalizes this expectation.

2. **Preparation, Submission and Implementation:** The Division modified the requirement that permittees submit SWMPs to the Division with the application (Heavy and Recycling stormwater permits). The renewal permit requires that permittees submit SWMPs to the Division only as requested by the Division.
3. **Signatory Requirements:** The Division added the requirement that the permittee must sign and certify all SWMPs, which applies to the original SWMP prepared for the facility, **and** each time the permittee modifies a SWMP. This requirement ensures that the individual or a position with responsibility for the overall operation of the regulated facility or activity, or a duly authorized representative of that person consistent with 5 CCR 1002-61.4(1)(f), is aware of and approves changes to the SWMP.
4. **Permit Retention:** The Division added the requirement that the permittee must maintain a copy of this renewal permit and the permit certification issued to the permittee with the SWMP.
5. **Sector-specific requirements:** The Division added the requirement that the SWMP shall include any additional sector-specific requirements outlined in Part III of the renewal permit.

F. STORMWATER MANAGEMENT PLAN (SWMP)—Specific SWMP Requirements

Consistent with the 2008 MSGP, the renewal permit locates all technology-based effluent limitations (i.e., practice-based effluent limitations [Part I.D.1 and Part III] and federal ELGs [Part I.A.1, Tables A-1 and A-2; Part I.D.2]), and water-quality based effluent limitations (Part I.D.3) in sections separate from the requirement to develop and implement a SWMP (Parts I.E and I.F).

As such, the requirement to prepare a SWMP and the documentation requirements set forth in the SWMP are not effluent limitations themselves, but terms and conditions of the permit, because the permittee is documenting information on how it intends to comply with the effluent limitations of the permit. This difference allows the permittee to modify, at any time and as required by the terms and conditions of the permit, the control measures used to meet these effluent limitations. The Fact Sheet for the 2008 MSGP provides significant discussion regarding the effluent limitation and terms and conditions provisions in this permit.

Changes to Specific SWMP Requirements:

Consistent with the 2008 MSGP, the Division modified the Specific SWMP Requirements to require that permittees maintain additional documentation with the SWMP. These documentation requirements include:

1. Facility Map

Following the public comment process, the Division added a requirement to renewal permit that addresses run-on from adjacent properties and requires that permittees identify the locations and sources of run-on to the facility from adjacent property that contains significant quantities of pollutants. This requirement was inadvertently omitted from the public notice version of the permit.

2. Facility Inventory and Assessment of Pollutant Sources

a. Assessment of potential pollutant sources

The Division added the requirement to maintain, and update as data is available, an assessment of potential pollutant sources that describes the potential of a pollutant to be present in stormwater discharges for each facility activity, equipment and material identified by the permittee.

3. Additional Control Measure Requirements

The Division added the requirement to document, and maintain with the SWMP, the schedules, procedures, and evaluation results for the following subset of practice-based effluent limitations.

- a. Good Housekeeping (see Part I.D.1.b) ;
- b. Maintenance (see Part I.D.1.c);
- c. Spill Prevention and Response Procedures (see Part I.D.1.d);
- d. Employee Training (see Part I.D.1.i); and,
- e. Non-Stormwater Discharges (see Part I.D.1.j).

4. **Inspection Procedures and Documentation**

The Division added the requirement to document, and maintain with the SWMP, inspection procedures and other documentation related to inspections.

5. **Monitoring Procedures and Documentation**

The Division added the requirement to document, and maintain with the SWMP, monitoring procedures and other documentation related to monitoring.

G. INSPECTIONS

The Division modified the self-inspection requirements in the renewal permit. Most significant among the changes are inspection frequency (i.e., quarterly inspections); inspection scope (i.e., one inspection must be conducted during a run-off event); limitations on exceptions to the quarterly inspection frequency for inactive and unstaffed facilities (i.e., a condition of no-exposure is required); and corrective action requirements.

The Division made changes to this section of the permit largely based on its observations during compliance inspections of permitted industrial facilities. Such observations include non-compliant field conditions the permittee did not identify and correct. The public notice version of the renewal permit required monthly inspections, but following review of comments on this provision of the permit, the Division reduced the monthly frequency to quarterly, although in many instances, more frequent inspection (e.g., monthly) may be appropriate for areas of the facility with significant activities and materials exposed to stormwater. The Division believes that the requirement for more frequent facility inspections (i.e., quarterly inspections) and documented corrective actions is a useful means for permittees to evaluate the effectiveness of implemented control measures, and correct any deficiencies.

Consistent with the 2008 MSGP, the Division added the requirement to conduct one of the quarterly inspections during a run-off event, and allows an exception to the inspection frequency for inactive and unstaffed facilities only if a condition of no exposure is first established at the facility and documented in the facility SWMP. If this is the case, such facilities are required to conduct two facility inspections annually, in the spring and fall.

Following the public comment process, the Division modified Part I.G.1 of the permit (Inspection Frequency and Personnel) to clarify the timeframe for conducting the required inspection during a runoff event. The requirement now indicates that for a rain event, this inspection must be conducted during, or within 24 hours after the end of, a measureable storm event; for a snowmelt event, the inspection must be conducted at a time when a measurable discharge occurs from the facility. The Division also clarified in the permit that the statement required at Part I.G.3 of the permit that the site is in compliance or out of compliance with the permit is limited to the Inspection Scope (Part I.G.2) evaluated by the inspector.

H. GENERAL MONITORING REQUIREMENTS

The Division consolidated and clarified monitoring requirements for the permittee in this section of the renewal permit. Applicable monitoring requirements in the renewal permit apply to each outfall authorized by the permit, except as otherwise exempt from monitoring as a “substantially identical outfall.” Outfalls are locations where stormwater exits the facility property, including pipes, ditches, swales, sheet flow and other structures that transport stormwater (EPA 832-B-09-003 (Industrial Stormwater Monitoring and Sampling Guide – March 2009 [Final Draft])). See Part I.K.1 of the permit for data reporting conventions, to include reporting “No Discharge” on the DMR if no discharge occurs within the

reporting period; “Benchmark Met” for each parameter that meets the sampling frequency reduction criteria at Part I.I.2.d); “No Exposure” for each parameter for the period the site meets the monitoring exception criteria at Part I.H.13; and “Natural Background” for each applicable parameter for which benchmark or water quality standard sampling requirement does not apply consistent with Part I.I.2.f and Part I.I.4 of this permit.

Several additions were made to the renewal permit, as follows:

1. **Analytical Requirements**

The Division added information relating to Practical Quantitation Limits (PQLs), analytical methods and limits in this section. This language is standard for Division permits and a supporting Division guidance document exists.

2. **Adverse Weather Conditions**

Consistent with the 2008 MSGP, the Division added a section to address Adverse Weather Conditions as it relates to sample collection and monitoring schedules. Requirements for substitute sampling and DMR submission are provided.

3. **Climates with Irregular Stormwater Runoff**

Consistent with the 2008 MSGP, the Division added a section to address permittee responsibilities if climate conditions do not allow sample collection according to the monitoring schedule. Requirements for collecting the required number of samples and revising the monitoring schedule are provided.

4. **Monitoring Periods**

Consistent with the 2008 MSGP, the Division added a section that documents the 3-month intervals for quarterly monitoring.

5. **Monitoring Exceptions for Inactive and Unstaffed Sites that meet the condition of no exposure**

Consistent with the 2008 MSGP, the Division added a section that documents the monitoring exceptions for “inactive and unstaffed facilities” based on a condition of no exposure. Following the public comment process, the Division determined that in addition to exceptions for quarterly visual and benchmark sampling, exceptions for any applicable ELG or Water Quality Standards monitoring is also appropriate for such sites, due to the condition of no exposure. Permittee responsibilities with respect to these exceptions are provided.

I. SPECIFIC MONITORING REQUIREMENTS

1. **Visual Monitoring**

Consistent with the 2008 MSGP, the Division added the requirement for the permittee to conduct quarterly visual examinations of stormwater discharges for the presence of color; odor; clarity; floating solids; settled solids; suspended solids; foam; oil sheen; and other obvious indicators of stormwater pollution. Permittee responsibilities with respect to documentation of results and corrective actions are provided. Following the public comment process, the Division removed the requirement to obtain a photograph of the sample.

2. **Benchmark Monitoring**

Benchmark monitoring is required by the renewal permit, and is similar to the “Monitoring Requirements” contained in the previous Heavy and Recycling stormwater permits. Benchmark concentration levels are not intended to be used as stormwater discharge effluent limitations, but as a tool to assess control measure effectiveness. Consistent with the 2008 MSGP, the Division modified the benchmark sampling requirements in the renewal permit. Most

significant among the changes are benchmark sampling for co-located activities, monitoring schedule (i.e., quarterly) and benchmark monitoring actions (i.e., corrective action requirements).

In contrast to EPA's approach, the Division will not routinely require the permittee to provide hardness data for the receiving water for industrial activities with hardness-dependent benchmarks. The Division will determine appropriate hardness values, and apply them in the permit certification for hardness-dependent benchmarks, as applicable. The Division will typically compute a mean hardness for the receiving stream based on sampling data obtained from Division, USGS, or other sampling efforts. The Division will attempt to use all available hardness data to minimize seasonal variations, from a sampling point downstream from the stormwater discharge. If hardness values are not available for the receiving stream, sampling data obtained from Division, USGS, or other sampling efforts for a stream within the same or comparable watershed will be used.

The Division adopted the benchmark sampling parameters and concentrations as provided in the 2008 MSGP, which includes a hardness maximum of 250 mg/L for hardness dependent benchmarks. Where the Division determines that a site-specific benchmark is necessary for stormwater discharges from specific facilities, a hardness maximum of 400 mg/L for hardness dependent parameters will be utilized, consistent with 5 CCR 1002-31(Regulation 31).

Following the public comment process, the Division:

- modified the permit requirement that Division approval is required to reduce the benchmark sampling frequency from quarterly to annual sampling (see Part I.I.2.d of the permit). In such cases, permittees are still required to submit quarterly DMRs; however, the permittee will indicate "Benchmark Met" in the result field on the DMR for each parameter that meets the sampling frequency reduction criteria. The Division intends to modify ICIS to reflect an annual sampling frequency in such cases; however, the permittee does not need Division approval to reduce sampling for those parameters that meet the criteria for doing so.
- added a provision to the permit that addresses natural background pollutant levels for benchmark monitoring, such that if the average concentration of a pollutant exceeds a benchmark value, and the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, the permittee is not required to perform corrective action or additional benchmark monitoring provided that the permit provisions at Part I.I.2.f are met.

a. Applicability of Benchmark Monitoring

The renewal permit requires that permittees conduct benchmark monitoring for both the primary industrial activity and any co-located industrial activities applicable to the facility discharge. This means that facilities with co-located activities may be required to conduct additional benchmark monitoring. Industry-specific benchmark concentrations are listed in the sector-specific sections of Part III of the permit.

In addition, the Division may require site-specific benchmark sampling to ensure that compliance with the other terms and conditions of the permit will control discharges as necessary to meet water quality-based effluent limitations, as described in Section III.D.3 of this Fact Sheet).

b. Benchmark Monitoring Schedule

The renewal permit requires that the permittee conduct benchmark monitoring **quarterly** for the first **four (4)** full quarters of permit coverage.

c. Benchmark Monitoring Actions

In this permit, the Division adopted the 2008 MSGP approach that requires permittee-initiated corrective actions with respect to benchmark monitoring results, instead of a Division-initiated requirement for corrective actions following review of Annual Reports. Stormwater data, submitted to the Division as required by the Heavy and Recycling stormwater permits, indicate that benchmark values are routinely exceeded. The Division believes that requiring permittees to perform corrective actions will result in a more timely response and resolution to such exceedances.

i) ***Data not exceeding benchmarks:***

The renewal permit allows for decreased monitoring frequency for facilities that demonstrate monitoring values below the benchmarks in stormwater discharges, as follows:

If, after collecting **4** benchmark samples, the average of the monitoring values for any parameter does not exceed the benchmark, the permittee may reduce benchmark monitoring frequency to **once-per-year**, rotating through the quarterly monitoring periods such that **eight (8)** samples are collected every five years. This monitoring framework allows samples to capture seasonal variations in stormwater discharges, yet relieves the permittee from quarterly sampling for the entire permit term, unless the benchmarks are exceeded (see below).

ii) ***Data exceeding benchmarks***

The renewal permit specifies Corrective Actions (required permittee actions, documentation and timelines) when the averaged monitoring values for any parameter exceeds the benchmark. After corrective action is taken, permittees are required to continue **quarterly** monitoring for **4** additional quarters, and calculate average monitoring values.

If the data from the additional monitoring does not exceed the benchmarks, permittees may reduce benchmark monitoring frequency to once-per-year as previously described. If this data does exceed the benchmarks, permittees must again perform Corrective Actions and continue quarterly sampling. This monitoring framework requires continued quarterly sampling only for those facilities that continue to exceed benchmarks in stormwater samples.

Following the public comment process, the Division added language to the permit that allows the sampling and corrective actions iterative process to be waived if the permittee demonstrates that applicable benchmark concentrations are not attainable due to irreversible human caused conditions. If sampling and corrective actions are waived, the Division will evaluate other permitting alternatives for the facility, the appropriateness of the national benchmarks, whether the benchmark warrants a change, etc..

3. Effluent Limitations Guidelines (ELG) Monitoring

Discharges subject to a federal ELG must be sampled prior to any commingling with discharges not subject to an ELG. This means that, in some cases, an internal outfall must be sampled to comply with the ELG sampling requirement, and benchmark or impaired water sampling conducted at an outfall location(s) where the discharge exits the facility property.

Consistent with the 2008 MSGP, the Division modified the ELG sampling requirements in the renewal permit by requiring follow-up actions if a discharge exceeds an ELG. Follow-up actions include the Corrective Actions in Part I.J, follow-up monitoring during the next qualifying rain event for any parameter which exceeded an effluent limit. Following the public comment process, the Division removed the requirement to conduct additional reporting if the follow-up monitoring exceeds the applicable effluent limitation.

Following the public comment process, the Division also removed the prohibition on using the substantially identical outfall monitoring provisions for numeric effluent limits monitoring; the substantially identical outfall monitoring provisions are now available for ELG monitoring.

4. Monitoring Requirements for Discharges to Impaired Waters

The Division added a new section to the renewal permit that addresses water quality standards monitoring requirements. As also discussed in Section III.D.3 of this Fact Sheet, water quality standards monitoring will apply to discharges to impaired waters and discharges to waters designated as critical habitat for threatened and endangered species. Water quality standards monitoring may also be imposed for discharges to other receiving waters, as discussed in Part I.D.3.a of the permit and Section III.D.3a of this Fact Sheet, as necessary to characterize the

discharge relative to any site-specific water quality based effluent limitation, where imposed. Monitoring frequency for such discharges will be **quarterly** at each outfall (except substantially identical outfalls). The Division will notify permittees of specific monitoring requirements (i.e., sampling parameters, sampling frequency, and sample type) in the permit certification. Monitoring conditions will be consistent with applicable water quality standard(s) for the impaired receiving water, or the assumptions of any available wasteload allocation in an applicable TMDL.

Following the public comment process, the Division added a provision to the permit that addresses natural background pollutant levels for impaired waters monitoring, which indicates that this monitoring requirement does not apply after one year if the pollutant for which the waterbody is impaired is not detected above natural background levels in the facility stormwater discharge, and the permittee documents that this pollutant is not expected to be present above natural background levels in the facility discharge consistent with Part I.I.4.c of the renewal permit.

J. CORRECTIVE ACTIONS

Consistent with the 2008 MSGP, the Division added a new section (Corrective Actions) to the renewal permit to identify permittee responsibilities with respect to resolving specific facility conditions. Conditions fall into two categories: those the permittee must eliminate, and those that require the permittee to review and modify control measures. Permittee responsibilities with respect to corrective action reports and deadlines, control measure modification and substantially identical outfalls are addressed.

K. REPORTING AND RECORDKEEPING

The Division modified the Reporting and Recordkeeping requirements in the renewal permit. Most significant among the changes are Discharge Monitoring Report (DMR) reporting and reporting conventions, reporting frequency, and Annual Report reporting.

The renewal permit requires permittees to summarize monitoring results for each calendar quarter on Division approved DMR forms (EPA form 3320-1), and submit DMRs by mail, or by using the Division's Net-DMR service, to the Division on a quarterly basis (by the 28th day of the following month). These changes are consistent with the existing reporting convention for monitoring results in Division permits. The Division plans to enter all industrial stormwater facility data into EPA's database of record, which is called the "Integrated Compliance Information System" (ICIS), and is a secure system for National Pollutant Discharge Elimination System (NPDES) that is only available to EPA and state users. The public can access information in ICIS by using the "Enforcement and Compliance History Online" (ECHO), or Envirofacts.

The Division modified the required content of the Annual Report. Specifically, only a summary of inspection dates need to be reported; however, all correct action documentation (including that for inspections) and the status of any outstanding corrective action(s) must be included.

Following the public comment process, the Division removed the requirement to submit an Exceedance Report if follow-up monitoring conducted pursuant to Part I.I.3 of the renewal permit exceeds a numeric effluent limit.

Permit Writer
Kathleen Rosow
June 16, 2011

IV. PUBLIC NOTICE COMMENTS – See attached Division Response to Public Comments document.

Permit Writer
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March 5, 2012